

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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THE NEW YORK DISTRICT COUNCIL OF  
CARPENTERS PENSION FUND, ET AL.,

06 CV 6531 (LBS) (GWG)

Plaintiffs,

-against-

**NOTICE OF MOTION**

PITCOHN CONSTRUCTION ENTERPRISES, INC.,  
AND GERARD MCENTEE,

Defendants.

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COUNSEL

PLEASE TAKE NOTICE that upon the annexed Memorandum of Law, and upon all prior papers and proceedings had herein, the undersigned will move this Court, before the Honorable Gabriel W. Gorenstein, U.S.M.J., at the United States Courthouse, 500 Pearl Street, New York, NY, at a date and time to be designated by the Court, or as soon thereafter as counsel can be heard, for:

A. Reconsideration pursuant to Local Civil Rule 6.3, of the Memorandum Order, dated May 5, 2009, granting defendant McEntee discovery relating to his unjustified reliance defense; or in the alternative re-argument on the motion;

B. An order pursuant to Federal Rules of Civil Procedure Rule 26(c) and Rule 37 compelling defendant McEntee to answer questions at deposition over his claim of the Fifth Amendment privilege against self-incrimination relating to his unjustified reliance defense, including but not limited to questions relating to the identities of the individuals paid from the four concealed bank accounts including their immigration status and work eligibility; and

C. Granting such other and further relief as the Courts deems just and proper.

Dated: May 12, 2009  
New York, New York

Respectfully submitted,

O'DWYER & BERNSTIEN, LLP

s/ Joy K. Mele  
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